CAPITAL GAINS TAX

What is Capital Gains Tax?

Capital Gains Tax (CGT) is tax that may become payable in the case of a disposal (e.g. sale, donation) or deemed disposal (i.e. death) of certain assets e.g. immovable property (e.g. erf, sectional title unit).

CGT is imposed on the owner of the asset. It is calculated on a portion of the capital gain for the year of assessment and is included in the taxpayer's taxable income for that year of assessment.

We are accustomed to paying Income Tax on our income e.g. salary, commission, rent etc. CGT however is Income Tax payable on capital gains at the disposal of a capital asset.

CGT is regulated by schedule 8 of the Income Tax Act.

To establish the amount of CGT a seller will pay, a three-tier approach is followed:

1. **Calculate the Capital Gain**

The first step is to calculate the capital gain made by seller on the disposal of the property. The capital gain is the difference between the base cost (initial purchase price) and the proceeds (eventual selling price). There are however factors that can influence both values:

Base cost (for a property bought after 1 October 2001): is the initial purchase price plus all cost of acquisition e.g. transfer costs, transfer duty, bond registration cost, cost of valuation as well as all improvements. Properties bought before this date either must make use of a valuation (if the seller obtained a valuation before 4 September 2004)) or by using the time apportionment formula in the Act.

Proceeds: is the selling price the new purchaser will pay minus the estate agent's commission.

2. **Calculate the Taxable Capital Gain**

CGT is not payable on the total capital gain, but only on a portion thereof. This portion is called the "inclusionary rate" and differs depending on the nature of the entity disposing the property.

In the case of a **natural person** the inclusionary rate is 40% of the net capital gain for the year of assessment.

In the case of **companies, close corporations and trusts** the inclusionary rate is 80% of the net capital gain for the year of assessment.

Capital gain (in no 1) multiplied with the inclusionary rate (in no 2) equals the taxable capital gain.

3. **Calculate the CGT payable**

The taxable capital gain, as calculated in 2 above, is added to the taxpayer's (owner's) income. The effect is that the taxpayer now pays income tax on the taxable capital gain plus his/her income.

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There are different income tax rates depending on the person or entity.

The different income tax rates

- The marginal tax rate at which a **natural person** pays income tax is between 0 - 45%.
- The statutory flat rate at which a **company and close corporation** pays income tax is 27%.
- The statutory flat rate at which a **trust** pays income tax is 45%

Calculating the effective CGT rate

The effective CGT rate is therefore calculated as follows: Inclusionary amount x Income tax rate = Effective rate.

Because both the inclusionary rate and the income tax rate differs that effective rates will also differ.

- **Natural person:** The maximum effective rate at which a natural person can pay CGT is 18% [40% (inclusionary rate) X 45% (max marginal tax rate)]. Because natural persons pay income tax on a sliding scale (with a maximum of 45%) the effective CGT rate can also be less.
- **Companies and close corporations:** The effective rate for companies and close corporations is 21.6% [80% (inclusionary rate) X 27% (statutory flat rate)]
- **Trusts:** The effective rate for trusts is 36% [80% (inclusionary rate) X 45% (statutory flat rate)]

Annual Exemptions

- Natural persons have an annual capital exemption of R40 000. This amount does not roll over and if not utilized in a tax year will fall away. In year of death the amount is R 300 000
- Companies, CC & trusts - none

The Primary Residence Rebate

A natural person disposing of his/her primary residence will have a rebate on the capital gain if such residence is registered in that natural person's name, in the amount of R2 000 000. If the capital gain exceeds R2 000 000, the balance will be subject to CGT.

When is capital gains tax payable?

Capital gains tax will be due at the end of the year of assessment in which the immovable property was disposed of. CGT is payable together with income tax.

Summary (updated 1 March 2021)

	NATURAL PERSON	CLOSE CORPORATION / COMPANY	TRUST
Inclusionary rate	40%	80%	80%
Marginal rate/Statutory flat rate (income tax rates)	0-45%	27%	45%
Effective rate	0-18 %	21.6%	36%
Annual exemption	R40 000 / R 300 000	None	None
Primary residence rebate	R2 000 000	None	None

The purpose of this document is only to provide general advice.

Should you require detailed advice on your particular circumstances we advise that you contact a registered tax advisor.

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